

H.R. 2831 - LILLY LEDBETTER FAIR PAY ACT

H.R. 2831 reverses the Supreme Court's May 29, 2007, ruling in *Ledbetter v. Goodyear*, which dramatically limited workers' ability to challenge discriminatory pay. In that 5-4 decision, the majority, led by Justice Alito, ruled that a victim of pay discrimination under Title VII must file a charge within 180 days of the employer's decision to pay someone less for an unlawfully discriminatory reason (such as race, sex, religion, etc.). Prior to the Supreme Court's ruling, the widely accepted rule in employment discrimination law was that every discriminatory paycheck was a new violation that restarts the 180-day clock. **H.R. 2831 restores that prior law.**

The Implications of the Supreme Court Decision

- **The ruling immunizes discriminatory pay from challenge.** Under the ruling in *Ledbetter*, a person must file a charge of discrimination within 180 days of the discriminatory pay *decision*. If an employee fails to do so, the employer may continue paying the employee in a discriminatory fashion, based on that prior decision, for the rest of his or her career.
- **Discriminatory pay is difficult to discover.** Many employers have policies explicitly forbidding employees from talking to one another about their pay. Workplace norms also discourage employees from asking each other about their pay. Additionally, discriminatory pay tends to have a cumulative effect – what may seem like a minor discrepancy at first builds up over time. By the time the discrimination is noticed, it would be too late to file a charge under the Supreme Court's ruling.
- **The ruling leads to more litigation.** Under the ruling in *Ledbetter*, an employee must file a charge with each pay decision – in order to preserve her rights to challenge discrimination – instead of attempting to ask questions, gathering information, attempting to resolve the matter informally with her employer. The decision leads to more conflict and more litigation and flies in the face of Congress's intent in Title VII to encourage informal conciliation between the employer and employee.

How H.R. 2831 Reverses the Supreme Court Decision

- **H.R. 2831 restores the law prior to the Supreme Court's *Ledbetter* decision.** Under H.R. 2831, the clock for filing a discrimination charge starts when a discriminatory pay decision or practice is adopted, when a person becomes subject to the pay decision or practice, or when a person is affected by the pay decision or practice, including whenever she receives a discriminatory paycheck.
- **H.R. 2831 restores this rule for Title VII, as well as age and disability discrimination.**
- **Ongoing discriminatory pay should never be immunized.** The Supreme Court rolled back workers rights with the *Ledbetter* decision. It is time for Congress to respond.